

### REMARKS

This Amendment is responsive to the October 28, 2008 Office Action. In the Office Action, claims 16-21, 23-25, 28 and 29 stand rejected and claims 22, 26, 27 and 30 have been withdrawn from further consideration. Claims 16, 17, 28, 29 and 30 have been amended. Support for the claims amendments may be found, for example, in originally-filed claim 16, Fig. 3A-3C, and page 3, lines 4-15 of the specification.

#### Rejection Under 35 U.S.C. § 112

Claims 16-21, 23-25, 28 and 29 stand rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. In particular, the Examiner asserts that the term “engaging on the person” and “roll” in claim 16 are not clear.

With respect to the term “engaging on the person”, Applicant has amended this term to state “engaging the person” and respectfully submits that this term is in accordance with 35 U.S.C. § 112, second paragraph. With respect to the term “roll”, Applicant respectfully submits that the at least one non-linear arm being adapted to “roll” along a surface supporting the person is sufficiently clear and in accordance with 35 U.S.C. § 112, second paragraph. Reconsideration and withdrawal of this rejection are respectfully requested.

#### Rejections Under 35 U.S.C. § 103

Claims 16-21, 23-25, 28 and 29 stand rejected under 35 U.S.C. § 103(a) for obviousness over United States Patent No. 5,375,277 to Carr et al., United States Patent No. to Wells, or United States Application Publication No. 2004/0019967 to Gant. In view of the following comments, reconsideration of this rejection is respectfully requested.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. In supporting a rejection under 35 U.S.C. § 103, the Examiner must provide “clear articulation of the reason(s) why the claimed invention would have been obvious.” See MPEP § 2142. Further, “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” See MPEP § 2142; *In re*

*Kahn*, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006); *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007).

Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness. In particular, the Examiner has merely stated that claims 16-21, 23-25, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells, Carr or Gant. No further discussion or reasoning was provided to support the conclusion of obviousness. Therefore, the Examiner has not met the initial burden of establishing a *prima facie* case of obviousness over the cited references, whether considered alone or in combination with each other.

Independent claim 16 provides, pursuant to one embodiment, an apparatus (5) for displacing a person (1, 13) from a lateral recumbent position to a sitting position and vice versa, comprising: an engaging means (7) for engaging the person (1, 13), the engaging means (7) being rotatable about a substantially horizontal axis such that, during rotation of the engaging means (7) while engaging the person, the person (1, 13) undergoes a rotation about a substantially sagittal axis (4, 15) of the person from the lateral recumbent position to a sitting position and vice versa; and a force-transmitting means (6) coupled to the engaging means (7) and rotatable about the substantially horizontal axis, said force-transmitting means (6) comprising at least one non-linear arm (6) being adapted to roll along a surface supporting the person (1, 13).

Independent claim 28 provides, pursuant to one embodiment, a method for displacing a person (1, 13) from a lateral recumbent position to a sitting position, and vice versa-comprising the steps of: A) providing an apparatus (5) comprising: an engaging means (7) for engaging the person (1, 13), the engaging means (7) being rotatable about a substantially horizontal axis; and a force-transmitting means (6) coupled to the engaging means (7) and rotatable about the substantially horizontal axis, said force-transmitting means (6) comprising at least one non-linear arm (6) being adapted to roll along a surface supporting the person, B) causing the engaging means (7) to engage the person (1, 13), and C) causing the engaging means (7) to rotate about the substantially horizontal axis, wherein the person (1, 13) undergoes a rotation about the sagittal axis (4, 15) from a lateral recumbent position to

a sitting position, wherein the substantially horizontal axis is displaced during rotation of the engaging means (7).

Wells, Carr or Gant fail to teach or suggest the present invention as defined by independent claims 16 and 28.

The Carr patent discloses an extraction cart (15) having a frame (20) with a leg support portion (30) and a back support portion (40) connected to their oppositely disposed transverse edges (32, 42) by a pair of hinged connections (70). The cart (15) has a loading position (Fig. 4) and a transportation position (Fig. 6). The cart (15) is rolled from the loading position to the transportation position, which is facilitated by a roll shield (96). However, as shown in Figs. 4 and 5 of Carr, the person engaging the cart (15) is rotated about a *longitudinal axis* rather than being rotated about a *sagittal axis* as recited in independent claims 16 and 28.

The Wells patent and the Gant reference disclose electromechanical devices for rotating a patient from a vertical position to a horizontal position. Neither Wells nor Gant, however, teaches or suggests where a force-transmitting means comprises at least one non-linear arm being adapted to roll along a surface supporting the person as recited in independent claims 16 and 28.

Therefore, for at least the foregoing reasons, Wells, Carr or Gant fail to render independent claims 16 and 28 obvious.

Claims 17-27 and 29-30 depend from, and add further limitations to, either independent claim 16 or independent claim 28 and are believed to be patentable for the reasons discussed hereinabove in connection with independent claims 16 and 28.

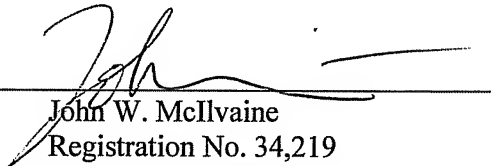
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Conclusion

In view of the foregoing amendment and comments, Applicant respectfully requests reconsideration of the rejection of claims 16-30 and allowance of the same.

Respectfully submitted,  
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